

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-1266
Matthew Dixon v. Coburg Dairy
(Houck)

Rehearing en banc.

02-1494
Carrie A. McMellon v. USA
(Goodwin)

Rehearing en banc.

COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:00 a.m.

TUESDAY, DECEMBER 2, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-11
Charles Walker v. R. C. Lee
(Osteen)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

02-7104
Peter Waine v. Sewall Smith
(Blake)

HABEAS CORPUS. Whether counsel was ineffective based on a failure to object to the court's instruction on reasonable doubt.

03-1279
Tidewater Finance v. Marlene Moffett
(Cacheris)

BANKRUPTCY. Whether a motor vehicle repossessed from a consumer debtor before filing bankruptcy becomes property of the estate.

02-2366 (L), 02-2367 02-2369
Kulthoum Mereish v. Robert Walker
(Legg)

CIVIL. Whether there was sufficient evidence of age discrimination to defeat summary judgment for employer.

PANEL I
COURTROOM ONE
*** Courthouse Annex Room 229 ***
9:30 a.m.

WEDNESDAY, DECEMBER 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4792
USA v. Zacarias Moussaoui
(Brinkema)

CRIMINAL LAW & PROCEDURE. Government appeal from district court's imposition of sanctions for refusal to comply with court orders requiring access to witnesses.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
10:00 a.m.

WEDNESDAY, DECEMBER 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1388
Paul Krop v. AIG Life
(Stillman)

INSURANCE. Entitlement to disability benefits under terms
of insurance policy when income exceeded threshold level.

03-1474
Durand Hedin v. Tommy Thompson
(Garbis)

FEDERAL EMPLOYMENT. Whether an officer of the Public Health
Services is barred under the "military exception" from
suing under the Title VII or the ADEA.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-4753 (L), 02-4762
USA v. Clifford Quinn
(Williams)

CRIMINAL LAW & PROCEDURE. Challenge to adequacy of indictment, sufficiency of evidence and jury instructions on bribery offense; sentencing issues.

03-1194 (L), 03-1196
Destiny Owens v. Leon Lott
(Anderson)

CIVIL RIGHTS. Challenge to constitutionality of "all persons" search warrant; qualified immunity.

03-1315
David George v. Reece McClure
(Bullock)

CIVIL. Challenge to summary judgment in action seeking to collaterally attack a state court judgment based on alleged intrinsic fraud.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1469 (L), 03-1566
NLRB v. Media General

LABOR. Challenge to the NLRB's overruling of company's election objections; whether union made a valid bargaining demand.

02-1567
Robert Betts v. Rector & Visitors
(Wilson)

ADA. Whether district court erred in determining that plaintiff had failed to show any causal connection between perceived disability and dismissal from academic program.

03-1329
SC Dept HEC v. Commerce & Industry
(Houck)

ENVIRONMENTAL LAW. Challenge to dismissal of action against insurers seeking cost recovery, contribution and restitution for remediating environmental contamination at former fertilizer manufacturing facility.

03-1280
Kristin Blair v. Defender Services
(Turk)

TORTS. Challenge to summary judgment in action seeking to impose liability for assault on the basis of respondeat superior, negligent hiring and negligent retention.

PANEL V
COURTROOM FIVE
Courtroom of Judge Spencer
9:30 a.m.

WEDNESDAY, DECEMBER 3, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-14 Shawn Humphries v. Jon Ozmint (Anderson)	HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.
03-1039 Selinda Simmons v. Neil O'Malley (Blake)	MEDICAL MALPRACTICE. Whether plaintiff presented sufficient evidence of causation; challenge to expert testimony.
03-1460 (L), 03-1461 03-1462 03-1463 03-1464 03-1465 US ex rel v. Fabricare Draperies (Motz)	FALSE CLAIMS ACT. Challenge to sufficiency of plaintiff's amended complaint; whether plaintiff lacks standing to bring qui tam action due to his criminal conviction for similar conduct.
03-1339 Golden Nugget Inc v. Chesapeake Bay (Williams)	CIVIL PROCEDURE. Challenge to admission of testimony of expert witness on the issue of causation in action arising out of damage to fishing vessel in dry dock.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
9:30 a.m.

THURSDAY, DECEMBER 4, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1065
Robert Evans v. Metropolitan Life
(Moon)

ERISA. Whether no reasonable finder of fact could conclude that employee demonstrated disability within scope of plan coverage.

03-6739
USA v. Gavin White
(Kiser)

POSTCONVICTION. Whether the remedy of vacateur of guilty plea deprived petitioner of the benefit of negotiated plea bargain.

03-1473
Pamela Faircloth v. Financial Asset
(Beaty)

DIVERSITY JURISDICTION. Whether district court erred in denying remand where plaintiff stipulated that damages would not exceed \$75,000.

03-4280
USA v. Timothy Dequasie
(Chambers)

CRIMINAL LAW & PROCEDURE. Challenge to the suppression of evidence on the grounds that the search warrant was inadequate.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

THURSDAY, DECEMBER 4, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

02-1149
M. Brenner v. Johns Hopkins Univ
(Blake)

ERISA. Whether employer failed to carry out its ERISA
disclosure obligations.

03-1624
Normandy Foods v. Ford Motor
(Davis)

CONTRACTS. Challenge to summary judgment in action arising
out of bankruptcy proceedings alleging violation of auto
dealership franchise agreement.

03-1193
RCI v. Sunterra
(Motz)

BANKRUPTCY. Whether debtor could assume and assign an
executory contract without consent of the other party.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

THURSDAY, DECEMBER 4, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1250
JTH Tax v. H&R Block
(Jackson)

CONTEMPT. Whether district court erred in finding that
defendants were not in contempt of injunction regarding
advertising of income tax refund loans.

02-2474
Chicago Title v. 100 Investment
(Motz)

INSURANCE. Whether insurer had duty to defend or indemnify.

03-1448 (L), 03-1449
Verizon v. MCImetro Access
(Smalkin)

TELECOMMUNICATIONS. Challenge to summary judgment upholding
state utilities commission's decision on telecommunications
interconnection agreement.

03-1166
LaSalle Bank v. Lehman Brothers
(Harvey)

CONTRACTS. Challenge to summary judgment in action alleging
breach of representation and warranties relating to the
scale of a mortgage loan.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
9:30 a.m.

THURSDAY, DECEMBER 4, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-1235
Linda Johnson v. MBNA America
(Williams)

FAIR CREDIT REPORTING ACT. Whether furnisher of credit information conducted a meaningful inquiry into the validity of disputed information.

02-1980
George Velasco v. Govt of Indonesia
(Britt)

FOREIGN SOVEREIGN IMMUNITIES ACT. Whether issuance of promissory notes constituted "commercial activity of a foreign state" so as to defeat claim of sovereign immunity.

03-4137
USA v. Shannon Williams
(Spencer)

CRIMINAL LAW & PROCEDURE. Whether police had reasonable suspicion to stop car for malfunctioning light; whether identificaton was admissible; other issues.

PANEL V
COURTROOM FIVE
Courtroom of Judge Spencer
9:30 a.m.

THURSDAY, DECEMBER 4, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4452 (L), 03-4655
USA v. Ibrahim Al-Hamdi
(Cacheris)

CRIMINAL LAW & PROCEDURE. Whether loss of diplomatic
immunity violated the Administrative Procedures Act, Ex
Post Facto Clause, or Due Process Clause.

02-4676
USA v. Samuel Wyatt
(Haden)

FOURTH AMENDMENT. Whether appellant consented to a search
of his person.

PANEL I
COURTROOM ONE
Courthouse Room 435 (Red Carpet)
8:30 a.m.

FRIDAY, DECEMBER 5, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-210

In re: Billy Williams

HABEAS CORPUS. Whether applicant may file successive motion for authorization under 28 U.S.C. Section 2244 where prior motion failed to satisfy requirements and applicant alleges additional information to support claim.

03-4209

USA v. Howard Baxley
(Howard)

SENTENCING GUIDELINES. Whether the amount of loss was correctly determined in light of the tension between USA v. Bailey, 975 F.2d 1028 (4th Cir. 1992), and USA v. Williams, 81 F.3d 1321 (4th Cir. 1996).
15 mins. per side

03-1185

Platinum Financial v. Ralph Byrd
(Nickerson)

BANKRUPTCY. Whether there was a bona fide dispute as to creditor's claims where the claims were based on unstayed state court judgments.

03-4174

USA v. James Scruggs
(Payne)

CRIMINAL LAW & PROCEDURE. Challenge to use of post-plea statements after rescission of plea and vacation of conviction; other issues.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
8:30 a.m.

FRIDAY, DECEMBER 5, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(12/02/2003 - 12/05/2003 Session)

NUMBER AND STYLE

NATURE OF CASE

03-4043
USA v. Timon Michaux
(Voorhees)

SENTENCING GUIDELINES. Whether prior assault conviction was properly assigned criminal history points rather than treated as relevant conduct in the instant offense.
15 mins. per side

02-4525(L), 02-4526
USA v. Keyston West
(Broadwater)

CRIMINAL LAW & PROCEDURE. Challenge to denial of motion to sever defendants' trials and to sever continuing criminal enterprise murder count from drug trafficking counts.

03-1056
Lombard Canada v. Mark Johnson
(Broadwater)

CIVIL. Whether West Virginia law allows an independent action for contribution by a party who made payments pursuant to a settlement agreement rather than a judgment.

02-2392
Lone Mountain v. Bowser-Morner
(Williams)

CONTRACTS. Propriety of summary judgment as to indemnification, breach of warranty, and negligence claims on statute of limitations grounds.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
8:30 a.m.

FRIDAY, DECEMBER 5, 2003

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
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NUMBER AND STYLE

NATURE OF CASE

02-4921
USA v. Dyron Rush
(Fox)

CRIMINAL LAW & PROCEDURE. Whether defendant produced sufficient evidence to warrant jury instruction on justification defense.

02-4693
USA v. William Kise
(Shedd)

SENTENCING GUIDELINES. Whether the district court erred in denying adjustment for acceptance of responsibility.
15 mins. per side

01-4586 (L), 01-4605 01-4607 03-4348 03-4367
USA v. Danny Maynard
(Copenhaver)

SENTENCING GUIDELINES. Upward departure based on finding that arson was committed to intimidate potential witness to counterfeiting offense, USSG Section 5K2.5; other issues.
15 mins. per side

03-4375
USA v. Ronald Foreman
(Smith)

SEARCH & SEIZURE. Challenge to the suppression of evidence obtained from search of defendant and vehicle.

PANEL IV
COURTROOM FOUR
Courthouse Room 420 (Tweed Carpet)
8:30 a.m.

FRIDAY, DECEMBER 5, 2003